



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

ORBAD MILIVOJEVIC,
Complainant,

and

JOHN CRANE, INC.,
Respondent.

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**)Charge No: 2000 CF 0969
)EEOC No: 21 BA 00263
)ALS No: 11407**

RECOMMENDED ORDER AND DECISION

This matter is before me for a Recommended Order and Decision to Dismiss in response to *Respondent's Motion to Dismiss for Want of Prosecution* filed July 12, 2001. Respondent appeared before Administrative Law Judge Nelson Perez on August 2, 2001; Complainant failed to appear. An order was entered granting Respondent's motion.

Findings of Fact

1. Complainant filed a Charge of Discrimination against the Respondent with the Illinois Department of Human Rights (Department) on November 18, 1999.
2. On October 19, 2000, the Department filed a Complaint on behalf of the Complainant alleging Complainant to have been aggrieved by practices of retaliatory discrimination in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 et.seq.
3. Respondent filed an answer to the Complaint on November 27, 2000.
4. On December 19, 2000, a scheduling order was entered.
5. Complainant's attorney filed a motion to withdraw on January 11, 2001, which was granted on January 17, 2001.
6. On June 7, 2001, Respondent filed a *Motion to Request Status Hearing* set for June 25, 2001 at 10:00 a.m.
7. Respondent appeared at the June 7, 2001 status; Complainant did not appear. An order was entered granting leave for Respondent to file a motion to dismiss.
8. Respondent filed *Respondent's Motion to Dismiss for Want of Prosecution* on July 12, 2001 set for July 19, 2001 at 11:00 a.m.
9. At the July 19, 2001 hearing, Respondent appeared; Complainant did not appear. Respondent's motion was entered and continued until August 2, 2001 at 11:00 a.m. The order specifically warned that if Complainant did not appear, Respondent's motion may be granted and the matter dismissed.
10. At the August 2, 2001 hearing, Respondent appeared; Complainant did not appear. Respondent's motion was granted.

Discussion

Respondent's motion alleges that it served Respondent's first set of interrogatories and first requests for production of documents to Complainant on February 5, 2001. To date, Complainant has failed to respond to the discovery requests or to request an extension to respond. Respondent indicates that it received a letter from Robert D. Banzuly, who identified himself as Complainant's settlement attorney, on February 26, 2001. On March 6, 2001, Mr. Banzuly made an oral settlement demand, to which Respondent made a counter offer. On June 1, 2001, Mr. Banzuly contacted Respondent and indicated that he had not received a response from Complainant and that he had been unable to speak with him. Respondent contends that to date, Complainant has neither responded to Respondent's discovery, nor has Complainant propounded discovery or communicated with Respondent in an attempt to resolve this matter.

A review of the record indicates that there is no appearance on file for Mr. Banzuly or any other appearance filed on behalf of the Complainant since the withdrawal of Attorney Louis Padilla, Jr. on January 17, 2001. The record shows that Complainant has filed no response to Respondent's motion and no certificate of filing of any discovery requests or responses in accordance with the Commission Procedural Rules at 5300.725(a).

Complainant failed to appear at the June 25, 2001 status, the July 19, 2001 hearing on Respondent's motion and the August 2, 2001 hearing on Respondent's motion, despite being specifically warned that failure to appear may result in dismissal of the action. The Illinois Human Rights Act at 775 ILCS 5/8A-102(I)(6), authorizes a recommended order of dismissal with prejudice or an order of default as a sanction for the failure of a party to prosecute his case or appear at a hearing or otherwise comply with this Act, the rules of the Commission, or a previous order of the hearing officer. Section 5300.750(e) of the Procedural Rules of the Illinois Human Rights Commission authorizes a recommendation of dismissal with prejudice as a sanction where a party has failed to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays proceedings.

Conclusions of Law

Complainant's failure to appear at the June 25, 2001, July 19, 2001 and August 2, 2001 hearings, his failure to answer Respondent's discovery requests, and his failure to take any action to advance this matter to resolution have resulted in unreasonable delay, justifying dismissal of this matter with prejudice.

Determination

Complainant's conduct has resulted in unreasonable delay and renders it difficult for the Commission to take any action with regard to this case except to dismiss it.

Recommendation

I recommend that this Complaint and the underlying Charge be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law section

ENTERED: AUGUST 15, 2001